

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**
Philadelphia Division

IN RE:

HUGH C POSTELL

Case No. 18-14258-mdc
Chapter 13

PHH Mortgage Corporation,
Movant

vs.

HUGH C POSTELL,
Debtor

**CONDITIONAL NON-OPPOSITIONAL RESPONSE TO MOTION FOR
AUTHORITY TO SELL REAL PROPERTY FREE AND CLEAR OF LIENS AND
ENCUMBRANCES**

COMES NOW, PHH Mortgage Corporation, (herein, “Respondent”) by and through undersigned counsel, and hereby responds to the Motion for Authority to Sell Real Property Free and Clear of Liens [Doc. 71] filed on November 11, 2021 and in support thereof, shows unto the Court as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Respondent does not have information necessary to admit or deny the averment in Paragraph 4. Strict proof is demanded at trial.
5. Admitted.
6. Admitted. It is admitted that the Agreement of Sale is provided as Exhibit “A”.

7. Denied. By way of further answer, the Sale Agreement lists November 19, 2021 as the sale date not December 15, 2021 as indicated by Debtor. Strict proof to the contrary is demanded at trial.
8. Denied. By way of further answer, Respondent does not have sufficient information necessary to admit or deny the averment in Paragraph 8. Strict proof is demanded at trial.
9. Admitted. By way of further answer, it is admitted PHH Mortgage Corporation has a secured lien on the property. A Payoff will be provided to Debtor's counsel upon receipt. It is anticipated that the expected payoff will be \$61,869.92.
10. Denied. By way of further answer, Respondent does not have sufficient information necessary to admit or deny the averment in Paragraph 10. Strict proof is demanded at trial.

By way of further response, Respondent objects to any Order permitting sale of the property without the following:

- a. Respondent's lien is paid in full from the closing proceeds, pursuant to a proper payoff quote obtained prior to and good through the closing date; or
- b. Any short payoff is approved by Respondent; and
- c. Debtor shall have sixty (60) days from entry of the Order to sell the Real Property.

WHEREFORE, Respondent respectfully requests that any order permitting the sale of the Real Property condition the same upon the conditions set forth above and for any other relief the Court deems just and proper.

This the 22nd day of November, 2021

/s/ Andrew Spivack
Andrew Spivack

(Bar No. 84439)
Attorney for Creditor
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ORDER

AND NOW, upon consideration of Debtor's Motion to Approve Sale of Real Estate Pursuant to 11 U.S.C. Section 363, and upon notice, and opportunity for hearing, and the responses thereto, the Motion is hereby **ORDERED** that the Motion is **CONDITIONALLY GRANTED** pursuant to the terms of this Order as follows:

It is **ORDERED** that the sale of Real Property located at **5050 Chancellor Street, Philadelphia, PA 19139** (the "Property") pursuant to the terms of the agreement of sale as more fully described in the Motion to Approve Sale of Real Estate Pursuant to 11 U.S.C. Section 363 for the purchase price of \$205,000.00; and it is further

ORDERED that the mortgage lien of PHH Mortgage Corporation shall remain a valid lien against the Property until it is paid in full; and it is further

ORDERED that the Debtor shall satisfy the mortgage lien of PHH Mortgage Corporation by paying the full amount due subject to a payoff quote good through the settlement date.

ORDERED Debtor shall have sixty (60) days from entry of the Order to sell the Real Property.

Honorable Magdeline D. Coleman
U.S Bankruptcy Court Judge

Date:

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and exact copy of the foregoing Response To Motion To Approve Sale has been electronically served or mailed, postage prepaid on November 22, 2021 to the following:

HUGH C POSTELL
5050 CHANCELLOR STREET
PHILADELPHIA, PA 19139

BRAD SADEK, Debtor's Attorney
Sadek and Cooper
1315 WALNUT ST STE 502
PHILADELPHIA, PA 19107

KENNETH E WEST, Bankruptcy Trustee
Office of the Chapter 13 Standing Trustee
1234 Market Street - Suite 1813
Philadelphia, PA 19107

United States Trustee, US Trustee
200 Chestnut Street
Suite 502
Philadelphia, PA 19106

/s/ Andrew Spivack

Andrew Spivack

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